

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-15949
Issue No(s): 5001
Case No.: [REDACTED]
Hearing Date: February 18, 2014
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance with shelter emergency?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 12, 2013, Claimant applied for SER assistance with shelter emergency. See Exhibit 1.
2. On November 19, 2013, the Department sent Claimant a SER Decision Notice. See Exhibit 1.
3. On November 22, 2013, Claimant filed a hearing request, protesting the Department's SER decision. See Exhibit 1.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

If the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause is granted. ERM 103 (October 2013), p. 4.

State Emergency Relief (SER) assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2013), p. 1.

In this case, on November 12, 2013, Claimant applied for SER assistance for rent to prevent eviction. See Exhibit 1. On November 19, 2013, the Department sent Claimant a SER Decision Notice, which denied Claimant's rent to prevent eviction amount of \$2,546.42 due to her income/asset copayment is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1.

The Department determines eligibility or ineligibility for each SER application and service requested. ERM 208 (October 2013), p. 1. In most cases, cash assets in excess of \$50 result in an asset copayment. ERM 208, p. 1. An asset copay cannot be reduced or waived. ERM 208, p. 1.

Also, a group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in Exhibit I, SER Income Need Standards for Non-Energy Services. ERM 208, p. 1. The income need standard for a SER group size of four is \$755. ERM 208, p. 5.

Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. ERM 208, p. 1. This is the income copayment. ERM 208, p. 1.

The income and asset copayments combined together determine the SER group's total copayment. ERM 208, p. 2. The total copayment is the amount the SER group must pay toward their emergency. ERM 208, p. 2. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2.

At the hearing, it was not disputed that the SER group size is four and that Claimant is requesting rent to prevent eviction in the amount of \$2,546.42. The Department presented a co-payment budget to show how Claimant's income/asset copayment is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1.

First, the Department calculated the SER group's gross earned income to be \$1,928.26. See Exhibit 1. The Department testified that this amount consisted of Claimant and her son's employment. Claimant did not dispute that this amount was correct if both their incomes are factored together. However, Claimant testified that her son's income should be excluded due to him being 18-years-old and a full-time student at the time of application.

The Department establishes the SER countable income period and determines the SER group's net countable income based on the application date and entry of income information in the data collection screens. ERM 206 (October 2013), p. 1. The SER budget computation period is 30 days. ERM 206, p. 1. This is referred to as the countable income period. ERM 206, p. 1.

Earned income examples include earnings from work as an employee (wages, salary, college work-study, commissions, tips). ERM 206, p. 2. The Department, though, does have a section which covers excluded income. See ERM 206, pp. 3-4. A review of this section found the applicable section. The Department does not count or verify earned income from the following sources:

- Earned income of a dependent child when both of the following conditions are met:
 - The accumulated earnings are held in a savings account of which the dependent child who earned the money is the sole owner.
 - The accumulated earnings are not commingled with money from any other source.

ERM 206, p. 3. The State Emergency Relief Glossary (ERG) defines a child as an dependent if they are under the age of 21; and live with one of the following: a parent, an adult relative, or an unrelated adult acting as a parent. ERG 2013-002 (March 2013), p. 4.

At the hearing, Claimant testified that she has a checking\savings account with approximately \$150. Moreover, a review of Claimant's household assets section in the application indicated that she only marked the checking account. See Exhibit 1.

Based on this information, it appears proper for the Department to include Claimant's son income in the earned income calculation. Claimant's son income (a dependent child) would be excluded as per ERM 206, however, the evidence indicates that the accumulated earnings are not held in a savings account of which the dependent child who earned the money is the sole owner. ERM 206, p. 3. Instead, the application indicated that the household assets section included only the checking account, with no savings account marked. See Exhibit 1. Therefore, it appeared that the Department properly calculated the earned income calculation.

However, a review of the application indicated that Claimant did not list her son's employment as income in the application. See Exhibit 1. Claimant listed only her

employment income, which showed the gross monthly income amount of \$1,884. See Exhibit 1. Claimant, though, did list her son's child support income. See Exhibit 1. However, Claimant made no mention of her son's employment. Moreover, the Department presented Claimant's employment budget summary document, which showed her budget amount of \$1,928.26. See Exhibit 1. This is the same amount shown in the co-payment budget calculation. See Exhibit 1. Thus, this information indicates that the Department did not factor in the son's employment income, which is contradictory to the Department testimony. In summary, it is unclear if the Department budgeted only the Claimant's income or both her and her son's employment income.

Nevertheless, the net income from employment or self-employment must be determined by deducting allowable expenses of employment from the gross amount received. ERM 206, p. 5. Here, the Department applied a mandatory withholding taxes (25 percent of the gross). ERM 206, p. 5. Twenty-five percent of \$1,928.26 is \$482.07, which results in a remaining earned income of \$1,446.19. See Exhibit 1.

The Department then subtracted the income need standard for a group size of four (\$755), which resulted in an initial income co-payment amount of \$691.19. See Exhibit 1. Finally, the Department added Claimant's asset co-payment of \$2,583.43, which resulted in a final total co-payment amount of \$3,274.62. See Exhibit 1. The Department infers that this amount exceeded the need amount of \$2,546.42 and the application should be denied.

As stated previously, Claimant testified that she only had a checking/savings account with an approximate balance of \$150. Claimant did not indicate any assets in the amount of \$2,583.43. A review of Claimant's application indicated a vehicle she listed (one total) and only a checking account. See Exhibit 1. However, no other assets were listed in the application. Claimant testified that she only has one vehicle. The Department was unsure of any other assets which equal the amount listed in the budget.

The SER group must use countable cash assets to assist in resolving their emergency. ERM 205 (March 2013), p. 1. The protected cash asset limit is \$50. ERM 205, p. 1. The Department excludes the first \$50 of an SER group's cash assets. ERM 205, p. 1. The amount in excess of the protected cash asset limit is deducted from the cost of resolving the emergency and is called the asset copayment. ERM 205, p. 1.

Excluded assets include one motor vehicle used as the SER group's primary means of transportation. ERM 205, p. 3.

Based on this information, it also appears that the Department should have not included Claimant's vehicle in the asset determination as it is excluded. See ERM 205, p. 3. Nonetheless, the Department will re-register the application and reprocess the application because the Department did not satisfy its burden of showing that it acted in accordance with Department policy. First, the Department did not satisfy its burden because it was unable to present testimony or evidence on how it calculated Claimant's

asset co-payment. Both parties testimony seemed to indicate that the vehicle was budgeted as an asset. However, no evidence was presented to indicate if this was accurate. Second, as stated previously, it is unclear if the Department budgeted only the Claimant's income or both her and her son's employment income. In the end, the Department will initiate verification of the SER group's countable income and assets as the circumstances existed at the time of application due to the Department not satisfying its burden of showing that it acted in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's SER application for rent to prevent eviction dated November 12, 2013.

Accordingly, the Department's SER decision is AFFIRMED REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister the SER application dated November 12, 2013;
2. Begin reprocessing the application/recalculating the SER budget from the date of application and as the circumstances existed at time of application, including verification of the SER group's income and assets in accordance with Department policy;
3. Issue supplements to Claimant for any SER benefits she was eligible to receive but did not from the date of application; and
4. Notify Claimant in writing of its SER decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 6, 2014

Date Mailed: March 6, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/tlf

cc:

